

### **REMARKS**

This is in response to the Office Action dated April 28, 2009 and the Advisory Actions dated August 11, 2009 and September 21, 2009.

After entry of this amendment, claims 28-53 are pending. Claims 1, 2, 7-9 and 26 have been cancelled without prejudice or disclaimer. New claims 28-53 have been added and find support *inter alia* in the original claims. Further support for new claims 28, 37, and 46 is found in the specification at page 1, lines 5-17, and page 50, Table 1. Further support for new claims 36, 45, and 53 is found at page 8, lines 27-29. No new matter has been added.

### **Claim Rejections – 35 USC § 112**

Claims 1, 2, 7-9 and 26 remain rejected under 35 U.S.C. §112, first paragraph, for allegedly lack of an enabling disclosure. Applicants respectfully disagree. However, to expedite prosecution, claims 1, 2, 7-9 and 26 have been cancelled without prejudice or disclaimer, which renders the present rejection moot. New claims 28-53 have been added. According to the Examiner, the specification is enabling for accumulating C<sub>16</sub>-, C<sub>18</sub>-, and/or C<sub>20</sub>-polyunsaturated fatty acids by expressing nucleotide sequences encoding SEQ ID NO: 2, 4 and 6. Advisory Actions dated September 21, 2009 at page 2. To accumulate, a polyunsaturated fatty acid must be produced. Therefore, Applicants respectfully submit that the new claims recite a scope of subject matter which a skilled artisan could clearly make and use according to the teaching in the specification.

Reconsideration and withdrawal of the rejection is respectfully requested.

### **CONCLUSION**

For at least the above reasons, Applicants respectfully request withdrawal of the rejections and allowance of the claims. If any outstanding issues remain, the Examiner is invited to telephone the undersigned at the number given below.

Applicants reserve all rights to pursue the non-elected claims and subject matter in one or more divisional applications.

Accompanying this response is a Request for Continued Examination and a petition for a two-month extension of time to and including September 28, 2009 to respond to the Office

Action mailed April 28, 2009 with the required fee. No further fee is believed due. However, if any additional fee is due, the Director is hereby authorized to charge our Deposit Account No. 03-2775, under Order No. 13478-00001-US from which the undersigned is authorized to draw.

Respectfully submitted,

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